

March 11, 2020

VIA EMAIL (FOIAonline) AND U.S. MAIL

Regional Freedom of Information Officer
U.S. EPA, Region 9
75 Hawthorne Street (ORC-1)
San Francisco, CA 94105

Re: Freedom of Information Act Request

Dear Regional Freedom of Information Officer:

Pursuant to the provisions of the Freedom of Information Act ("FOIA") 5 U.S.C. § 552, *et seq.*, as amended, as implemented by the United States Environmental Protection Agency ("EPA") under 40 C.F.R. § 2.100 *et seq.*, I am submitting this request for copies of the documents identified below.

1. All documents demonstrating and/or summarizing EPA's evaluation of Tetra Tech EC, Inc.'s remediation data (including but not limited to radiological scanning or sampling data,) gathered at Parcel E at Hunters Point Naval Shipyard in San Francisco, California.

I request that you conduct sufficient communications so as to ensure that: (a) the individuals or offices having the most expeditious access to the documents provide them as soon as possible; (b) all requested documents, to the extent they exist, are provided; and (c) where documents are held by two or more individuals or offices but one has drafts of such documents or one has a copy of the subject documents with annotations by hand or otherwise, all such documents are provided.

I further request that, pursuant to 5 U.S.C. § 552(a)(3)(B), your agency produce any responsive documents in the native electronic format in which each document was created. To the extent that your agency is unable to produce responsive documents in the requested format, I request that your agency confirm that the records do not exist in native format and produce the documents in the following format, listed in accordance with my preference: 1) PDF format; or 2) paper copy. These documents should be produced in a mutually agreeable, orderly fashion.

As you know, 5 U.S.C. § 552(a)(6)(A)(i) requires that your agency determine within 20 working days after receipt of this request whether the government will comply and immediately notify the undersigned of the agency's determination, the reasons therefor, and appeal rights in the event of an adverse determination.

The term "document" as used herein shall mean all of the following, without limitation and by way of description: (a) all printed materials of every kind whatsoever; (b) all handwritten materials of every kind whatsoever; (c) all materials in electronic media regardless of the forms of such media; (d) all drafts of subject documents; (e) all documents referenced in subject documents including those noted as exhibits or attachments as well as those referenced in the bodies of subject documents or in footnotes to subject documents; (f) all documents, otherwise identified, but containing marginal or other annotations handwritten or otherwise; (g) all documents in the form of transcripts of meetings and telephone conversations and memoranda of such meetings and telephone conversations, whether printed or handwritten; (h) backup copies, recoverable deleted files, and any other archived or discarded material that is

among the foregoing; (i) all audio visual records of public meetings, which may be made by a DVD, compact disc, or other appropriate means; (j) all transcripts of public meetings; (k) to the extent not covered by the definitions in (a)-(j), all materials generated by or received by any government employee, consultant, or other person having any relationship to the government; and (l) to the extent not covered by the definitions in (a)-(j), all materials generated by any person not in the employ of the federal government, including but not limited to lawyers, state or local government officials of every level, other interested parties, and non-parties to any communications on any relevant subject.

To the extent that you determine that any subject document will not be disclosed because it meets any of the criteria in the FOIA for nondisclosure, you are requested to identify such documents in accordance with the requirements of *Vaughn v. Rosen*, 523 F.2d 1136 (D.C. Cir. 1975). *See Mead Data Central, Inc. v. Dept. of the Air Force*, 566 F.2d 242, 251 (D.C. Cir 1977) (“[W]hen an agency seeks to withhold information it must provide a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.”). Please note that the government has the burden of proving that the information you seek to withhold falls within the FOIA exemption you claim. *Lewis v. Internal Revenue Service*, 823 F.2d 375 (9th Cir. 1987).

Responsive documents are requested to be produced in their entirety, including all attachments, enclosures, and exhibits, as previously noted. In the event that it is determined that a document contains material or information which falls within statutory exemptions to mandatory disclosure, it is especially requested that such material or information be reviewed for possible discretionary disclosure. Similarly, in the event that it is determined that a document contains material or information which falls within the statutory exemptions to mandatory disclosure, it is expressly requested that, in accordance with the provisions of 5 U.S.C. § 552(b), any and all reasonably portions of such document be produced that can be segregated.

This request constitutes notice and demand for the production of the above described documents. As soon as any portion of this request becomes available, I would appreciate it if you would contact me as soon as possible to arrange for a mutually convenient time and location to inspect the records. It is further requested that, to the extent possible, documents in logical groupings, determined to be disclosable, be provided in accordance with this request on an incremental basis as soon as they become available. While the burden remains on the government to produce all documents within the required time period, I am willing to discuss and agree on reasonable means of production to facilitate government compliance with the law.

I will be responsible for the reasonable cost of locating and reproducing the requested documents to the extent required by your regulations. If such cost will exceed \$500.00, please contact me before incurring any additional cost.

Thank you for your prompt attention to this request.

Very truly yours,



Christopher A. Rheinheimer